

**UNITED STATES COURT OF APPEALS**  
**FOR THE TENTH CIRCUIT**

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**OCT 26 2000**

**PATRICK FISHER**  
Clerk

ROLAND LOBSTER,

Plaintiff-Appellant,

v.

THE BOEING COMPANY,

Defendant-Appellee.

No. 00-3040  
(D.C. No. 99-CV-1378-WEB)  
(D. Kan.)

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**ORDER AND JUDGMENT** \*

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Before **TACHA** , **EBEL** , and **BRISCOE** , Circuit Judges.

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After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

Plaintiff Roland Lobster appeals from the district court's order dismissing his complaint without prejudice for failure to state a claim under federal law. Our

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\* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

review is de novo. See Sutton v. Utah State Sch. for Deaf & Blind, 173 F.3d 1226, 1236 (10th Cir. 1999). We have reviewed the record on appeal in light of the parties' arguments, and affirm for substantially the same reasons as those set out in the district court's January 18, 2000 order.

AFFIRMED.

Entered for the Court

Mary Beck Briscoe  
Circuit Judge